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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,323	10/28/2003	Louis P. Steinhauser	5269-000004/CPB	4859
28997	7590	11/23/2005		
HARNES, DICKEY, & PIERCE, P.L.C 7700 BONHOMME, STE 400 ST. LOUIS, MO 63105				
			EXAMINER BASINGER, SHERMAN D	
			ART UNIT 3617	PAPER NUMBER
DATE MAILED: 11/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/695,323	Applicant(s) STEINHAUSER, LOUIS P.	
	Examiner Sherman D. Basinger	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 5, and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis.

Davis discloses an outboard motor position responsive system comprising an ignition system including the ignition switch sensor 290, an outboard motor position sensor 220 in communication with the ignition system, a microprocessor 100 in communication with the outboard motor position sensor, an alarm 380 in communication with the microprocessor, an ignition disabling switch shown at the bottom of figure 1b and a tilt circuit including the up and down trim solenoid drivers in communication with the microprocessor.

Davis does not disclose wherein the communications are via radio frequency signals or via infrared signals; however, Davis does disclose that signals are through microprocessor 100.

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Motose et al discloses a plurality of outboard motor sensor signals transmitted using radio waves or infrared signals (column 10, lines 9-17).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to modify Davis such that the signals from the sensors such as the ignition switch sensor 290 and the trim sender sensor 220 are sent to the microprocessor 100 and thereon to the alarm 380 and ignition disable via radio frequency signals or infrared signals in a manner taught by Motose et al. Motivation to do so is to avoid the use of wiring which requires a wiring harness and the placement of the harness.

Davis also does not disclose:

wherein when an

operator attempts to start the ignition system when the

outboard motor is tilted up beyond a maximum safe tilt position, the alarm is activated by the microprocessor to warn the operator;

wherein when an

operator attempts to start the

ignition system when the

outboard motor is tilted up beyond a maximum safe tilt position, the ignition disabling switch is activated by the microprocessor to prevent the operator from starting the ignition system; and

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wherein when

an operator attempts to start the ignition system when the

outboard motor is tilted up beyond

a maximum safe tilt position, the tilt circuit is

activated by the microprocessor to automatically lower the outboard motor.

However because the microprocessor of Davis can easily be programmed to all of the

above, it would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains to do so. Motivation

to do so is to protect the outboard motor engine from damage and to protect the boat

operator or a passenger from the outboard motor propeller.

Davis also does not disclose:

wherein when an operator attempts to start the

ignition system when the outboard motor is tilted

up beyond a maximum safe tilt position, the alarm is

activated by the outboard motor position sensor to warn the operator;

wherein when an operator attempts to start the ignition system when the

outboard motor is tilted up beyond a maximum safe tilt position, the ignition disabling

switch is activated by the outboard motor position sensor to prevent the operator

from starting the ignition system; and

wherein when an operator attempts to start the ignition system when the

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outboard motor is tilted up beyond a maximum safe tilt position, the tilt circuit is activated by the outboard motor position sensor to automatically lower the outboard motor.

However, because the microprocessor of Davis can be programmed to have the outboard motor position sensor do all of the above, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to have it do so. Motivation, again, is to protect the outboard motor engine, the outboard motor propeller, the operator and any passenger.

3. Claims 2, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis.

Davis discloses an outboard motor position responsive system comprising an ignition system including the ignition switch sensor 290, an outboard motor position sensor 220 in communication with the ignition system, a microprocessor 100 in communication with the outboard motor position sensor, an alarm 380 in communication with the microprocessor, an ignition disabling switch shown at the bottom of figure 1b and a tilt circuit including the up and down trim solenoid drivers in communication with the microprocessor.

Davis does not disclose that communications are superimposed over existing wiring of a power boat. Using existing wiring to send signals superimposed on the existing wiring

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is very well known. Beilfuss in 1966 patented a call system for hostelryes in which a fire alarm circuit is superimposed on a morning call circuit to allow addition of a fire alarm system to an already existing installation with running additional wiring between the desk and rooms. In view of this teaching it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to superimpose the signals from sensors such as the ignition switch sensor 290 and the outboard motor position sensor 220 of Davis to the microprocessor 100 and thereafter to the alarm 380 and the ignition disable over existing wiring of the power boat of Davis. Motivation to do so is found in Beilfuss in his statement that additional wiring will not have to be run between the sensors, microprocessor and alarms.

Davis also does not disclose:

wherein when an

operator attempts to start the ignition system when the

outboard motor is tilted up beyond a maximum safe tilt position, the alarm is

activated by the microprocessor to warn the operator;

wherein when an

operator attempts to start the

ignition system when the

outboard motor is tilted up beyond a maximum safe tilt position, the ignition disabling

switch is activated by the microprocessor to prevent the operator from starting the

ignition system; and

wherein when

an operator attempts to start the ignition system when the

outboard motor is tilted up beyond

a maximum safe tilt position, the tilt circuit is

activated by the microprocessor to automatically lower the outboard motor.

However because the microprocessor of Davis can easily be programmed to all of the above, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to do so. Motivation to do so is to protect the outboard motor engine from damage and to protect the boat operator or a passenger from the outboard motor propeller.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Terminal Disclaimer***


5. Receipt is acknowledged to the terminal disclaimer filed March 8, 2005. The double patenting rejection set forth in the office action mailed November 9, 2004 was withdrawn in view of the filing of the terminal disclaimer.

**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 571-272-6679. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sherman D. Basinger  
Primary Examiner  
Art Unit 3617  
11/16/05

Wednesday, November 16, 2005